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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,987	10/02/2003	Jeffrey C. Herold	033905-000024	1550

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EXAMINER	
PHAN, HAU VAN	

ART UNIT	PAPER NUMBER
3618	

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/678,987	HEROLD, JEFFREY C.	
	Examiner	Art Unit	
	Hau V Phan	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Acknowledgment

1. The amendment filed on 3/8/2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claim 9-18, 21, 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (1,031,033) in view of Schmidt (5,277,449).

Williams in figures 1-3, discloses a travel bag for enclosing, protecting and transporting contents placed therein and for collapsing to a storage position when contents are not placed therein. The travel bag comprises a flexible enclosure or soft side garment bag (6) and a rigid support member (7). The rigid support member has a main portion, a bottom portion, and side portions (as shown in figure 3). The main portion has a lower portion, which is externally supported a back lower portion. The bottom portion joined the main and side portions for form a partially enclosed concave part into which a portion of the flexible enclosure is fitted and affixed. Wherein the top can be collapsed into the partially enclosed cavity. The flexible enclosure or soft side garment bag formed of a strong material arranged as an enclosure having a top, sides

and bottom portion. Williams also discloses the flexible enclosure, which is made of deformable material such as fabric with their flexibility allows them to fit in the small and elevated storage spaces. Therefore, the sides of the flexible enclosure or the garment bag should be flexible so that when the bag does not contain contents, the enclosure can be collapsed to a storage position. The main portion of the rigid support member extends from the bottom of the enclosure along a portion of the side and terminates near the middle of the enclosure (figure 3). The rigid support member also formed of a single piece rugged material. Williams fails to show the flexible enclosure having four quadrants, closure means and the external rigid support fitting only over a quadrant of the flexible enclosure.

Schmidt. in figures 1-4, teaches a travel bag for enclosing, protecting and transporting contents placed therein and for collapsing to a storage position when contents are not placed therein. The travel bag comprises a flexible enclosure or soft side garment bag (50). The flexible enclosure or soft side garment bag formed of a strong material arranged as an enclosure having a top (54), sides (52) and bottom portion (53). Schmidt also teaches the flexible enclosure, which is made of deformable material such as fabric with their flexibility allows them to fit in the small and elevated storage spaces. Therefore, the sides of the flexible enclosure or the garment bag should be flexible so that when the bag does not contain contents, the enclosure can be collapsed to a storage position. The main portion of the rigid support member extends from the bottom of the enclosure along a portion of the side and terminates near the middle of the enclosure (figure 4). The rigid support member also formed of a single

piece rugged material. The flexible enclosure includes an opening formed in the enclosure and closure means (not number, see figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the travel bag of Williams with the travel bag having four quadrants and closure means as taught by Schmidt in order to place the travel bag in stand position and secure the material in the bag.

Regarding claim 10, Williams discloses the flexible enclosure, which is fitted and affixed to the enclosed concave part of the rigid support member. Therefore, when the flexible enclosure is in the storage position, part of the flexible enclosure will occupy the concave part of the rigid support member.

Regarding claim 11, Williams discloses the rigid support member, which is extended from the bottom portion of the enclosure along a portion of the back of the enclosure and along a portion of the sides of the enclosure (figure 1).

Regarding claim 12, Williams discloses the rigid support member, which is extended from the bottom portion of the enclosure along a portion of the back of the enclosure and terminates near the middle of the enclosure (figure 3).

Regarding claim 13, Williams discloses the main portion of the rigid support member, which is located on the back portion of the enclosure and extends between the bottom portion and the middle of the enclosure (figure 3).

Regarding claim 15, Williams discloses the rigid support member, which is formed by the main portion in a vertical direction and the bottom portion in a horizontal

direction. Therefore, the shape of the rigid support member is substantially similar to a quadrant of the flexible enclosure.

Regarding claims 17-18, Schmidt discloses the flexible enclosure, which is formed of a material from the group of deformable material, which can be folded and the rigid support member, which is formed of plastic or the like that could be a metallic material.

Regarding claim 21, Schmidt discloses the flexible enclosure having two corners and the rigid support member has two corners. The corners of the flexible enclosure being matingly received and affixed into the corners of the rigid support member.

Regarding claim 23, Schmidt discloses the rigid support member, which is jointed by the main portion and the bottom portion to have a convex side and a concave side. The flexible enclosure affixed to the concave side of the rigid support member. The wheel wells affixed to the convex side of the rigid support member at the curved joint (figure 4).

Regarding claim 25, Williams discloses the rigid support member, which formed by the main portion, the bottom portion and the side portions to have a single closed loop periphery.

Regarding claim 26, Williams discloses the flexible enclosure sides, which is formed of a single piece, and wrapped in a rectangular body to form a substantially elongate element in a cylindrical body.

Regarding claim 27, Williams discloses the main portion of the rigid support member, which is located on the back portion of the enclosure and extends between the bottom portion and the middle of the enclosure (figure 3).

Regarding claim 28, Williams discloses the rigid support member, which is jointed by the main portion and the bottom portion to have a concave side to cooperate in form with the flexible enclosure member (figures 3-4).

Regarding claim 29, Williams discloses the rigid support member having corners integrated with the entire rigid member as a single piece of formed material whereby the corner cannot be separated from the bag (figure 3).

Regarding claim 30, Williams discloses the rigid support member, which formed by the main portion, the bottom portion and the side portions to have a single closed loop periphery. The flexible enclosure member is affixed to the rigid member such that it may pushed through the closed loop periphery and into the partially enclosed cavity formed by the rigid member (figure 3. Notice, the term "may be" is not true limitation).

4. Claim 19-20, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (1,031,033) in view of Schmidt (5,277,449) as applied to claims 16 and 21 above, and in view of Rekuc et al. (5,743,363).

The combination of Williams and Schmidt disclose the external rigid member, but fail to show a wheel wells.

Rekuc et al. in figures 1 and 4, teach a scuff resistant bag comprising a rigid support member (16) and a flexible enclosure (10). The rigid support member has bores (27) to accommodate bolts or rivets (22) for holding the flexible enclosure in

place. The external rigid support has wheel wells (23), wheels (12) and wheel mounting hardware (as shown in figure 1). The external rigid support comprises reinforcement ribs (29). The ribs being formed on the rigid member main portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the travel bag of Schmidt with the scuff resistant bag having the flexible enclosure affixed to the rigid support member and having wheel wells, wheels and wheel mounting hardware by rivets as taught by Rekuc et al. in order to hold the flexible enclosure in place and o protect the external rigid support in contact with the ground when the operator pull the travel bag.

5. Claim 31-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (1,031,033) in view of Schmidt (5,277,449) as applied to claims 9, 14, 16 and 24 above, and in view of Speck (6,595,358).

The combination of Williams and Schmidt disclose the flexible enclosure, but fail to show an opening along one of sides.

Speck teaches a baseball equipment bag comprising sides portions or forward portion (12) having an opening including closure means, which is a zipper (38). The opening extend along one of the sides and complete length of one of the sides. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the travel bag of Williams in view of Schmidt with the baseball equipment bag comprising sides portions or forward portion having an opening including closure means, which is a zipper as taught by Speck in order to access to the travel bag from a side portion.

Response to Arguments

6. Applicant's arguments with respect to claims 9-42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
Primary Examiner
Art Unit 3618

4/16/06